

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR MULTNOMAH COUNTY

ROBERT BLALOCK.,

Plaintiffs,

vs.

MAXIMUM SECURITY ALARM INC. AKA

MAXIMUM SECURITY; and HILLCREST

DAVIDSON & ASSOCIATES LLC.

Defendant

Case No.: 1104-04734

FIRST AMENDED COMPLAINT (Unlawful Trade Practices, Civil Elder Abuse, Fair Debt Collection Practices, and Unlawful Debt Collection Practices, Intentional Infliction of Emotional Distress)

NOT SUBJECT TO MANDATORY ARBITRATION; PRAYER

Prayer \$188,498

1.

Plaintiff, Robert Blalock, is an individual, residing in the Oregon. He is a disabled Veteran whose disability is a heart condition and other medical conditions that are not likely to improve in the next year. The disability prevents him from working in his occupation of bus driver. The disability makes him vulnerable to financial abuse. Plaintiff is a vulnerable person under ORS 124.100(1)(e)(D) and a consumer as that term is defined at 15 U.S.C. § 1692a(3).

2.

[Defendant Maximum Security Products Corporation is a New York corporation, operating from an address of 3 Schoolhouse LN Waterford NY 12188] Defendant Maximum Security Alarm Inc. is a Nevada corporation operating from a principal place of business at 1545 River

1 Park DR STE 450 Sacramento CA 95815 and doing business in Oregon as Maximum Security
 2 Alarm or Maximum Security (hereinafter Maximum). [*Maximum's registered agent has a*
 3 *Multnomah County address.*]

4 3.

5 Plaintiff Hillcrest Davidson & Associates LLC is a Texas debt collector with a principal place of
 6 business at 850 N Dorothy DR STE 512 Richardson Texas 75081 (hereinafter Hillcrest).
 7 Hillcrest uses the instrumentalities of interstate commerce and the mails in its business, the
 8 principal purpose of which is the collection of debts and is a debt collector as that term is defined
 9 by 15 USC 1692a(6).

10 4.

11 [*Anderson Crenshaw & Associates (hereinafter Anderson) is a debt collector operating from a*
 12 *principal place of business located at 605 N Sherman ST Richardson Texas 75081, county of*
 13 *Dallas and 12801 N Central Expressway STE 250 Dallas Texas 75243. Anderson uses the*
 14 *instrumentalities of interstate commerce and the mails in its business, the principal purpose of*
 15 *which is the collection of debts and is a debt collector as that term is defined by 15 USC*
 16 *1692a(6).I]*

17 5.

18 Maximum advertises its security systems and services on television. The ad invites the consumer
 19 to contact Maximum to obtain a security system. In the spring of 2009 plaintiff saw Maximum's
 20 ad on television and contacted Maximum. In that conversation, an employee of Maximum or an
 21 agent of Maximum arranged to visit plaintiff at his home a couple of days later to facilitate the
 22 purchase of an alarm/monitoring system.

23 6.

24 Plaintiff recalls that the Maximum employee or agent "installer" arrived on the designated day, a
 25 Friday, and handed plaintiff the contract and went to work installing the alarm system. The

1 "installer" did not discuss the contract with plaintiff and did not explain to plaintiff his right to
 2 rescind the contract or show him any form that plaintiff could use to rescind the contract and did
 3 not disclose the information required by ORS 646.611 to be disclosed.

4 7.

5 Plaintiff recalls that the contract contained a three day unlimited guarantee allowing him to
 6 cancel the contract in three days if he was not satisfied with the service for any reason.

7 8.

8 Plaintiff expressed his dissatisfaction with the service the following day, Saturday. On Sunday,
 9 or Monday the "installer" returned at plaintiff's request. The "installer" agreed that the system
 10 was not working properly.

11 9.

12 The "installer" attempted to convince plaintiff to try another product and offered to fix the
 13 system. Plaintiff insisted that the system be taken out pursuant to his right to "guaranteed
 14 satisfaction." The installer removed the system.

15 10.

16 Despite cancelling the contract, Maximum called over the next three months asking for payment.
 17 Plaintiff's wife, Leora Blalock, reported to Maximum that the system had been removed and
 18 disputed that plaintiff owed any money on the account. Maximum said they would look into it
 19 and let her know. Plaintiff did not hear back. This happened several times but ultimately
 20 Maximum stopped calling. Plaintiff reasonably believed that the company had corrected its
 21 erroneous account records and did not learn otherwise until April 13, 2010.

22 11.

23 On April 13, 2010, Anderson, acting on behalf of Maximum as agent or employee of Maximum,
 24 contacted plaintiff and demanded payment of \$2,032.80. Plaintiff disputed the debt on the phone
 25 but Anderson insisted that plaintiff pay it and threatened that if plaintiff disputed it then plaintiff

1 would have to pay a lot more in court fees and attorney fees. [Plaintiff believes that after an
 2 opportunity for discovery, the evidence will show that defendants knew that the debt was
 3 not owed and falsely misrepresented to plaintiff that they could make him pay it. The
 4 misrepresentation was intended to cause emotional upset and to coerce plaintiff into paying
 5 the debt.]

6 12.

7 The call scared plaintiff and he immediately acquiesced to the demand rather than endure the
 8 harassment which caused him humiliation, embarrassment, anger, nervousness and loss of self-
 9 esteem.

10 13.

11 Plaintiff, after an opportunity for discovery, believes the evidence will show that Maximum with
 12 knowledge that plaintiff had already paid Anderson \$2,032.80, hired Hillcrest to collect the same
 13 alleged debt.

14 14.

15 Hillcrest with the knowledge that the alleged debt had already been paid, acting on behalf of
 16 Maximum as agent or employee of Maximum, then sent plaintiff a letter, which was received by
 17 plaintiff, dated May 12th 2010, demanding payment on behalf of Maximum.

18 15.

19 Plaintiff's wife called Hillcrest and told them the debt was paid. Hillcrest attempted to get
 20 plaintiff to cancel the payment to Anderson. When that failed Hillcrest called, between five and
 21 fifteen times, plaintiff's and wife's cell phones demanding plaintiff pay the debt again or
 22 Hillcrest would "ruin his credit."

23 16.

1 Each call caused plaintiff emotional upset. Plaintiff further believes that with an opportunity for
 2 discovery, the evidence will show that Hillcrest was using an auto dialer to place the calls to
 3 plaintiff and his wife's cell phones.

4 17.

5 Plaintiff disputed the debt in writing several times and asked Hillcrest to cease calling until they
 6 responded to plaintiff's specific disputes. In the disputes, plaintiff asked Hillcrest to stop calling
 7 his wife's cell phone. Hillcrest continued to call and demand payment without responding to the
 8 dispute. This attempt to collect a debt that plaintiff believed was not owed and was already paid
 9 caused plaintiff anger, anxiety, irritation and emotional distress that interfered with plaintiff's
 10 normal routines.

11 CLAIMS FOR RELIEF

12 18.

13 Plaintiff realleges the preceding paragraphs and incorporates them herein for all claims of relief.

14 19.

15 FIRST CLAIM FOR RELIEF (UTPA)

16 Maximum's act in coming to Plaintiff's home to sell him an alarm system is a home sale
 17 governed by ORS 83.710. Failure by defendant, Maximum, to provide notice of a consumer's
 18 right to rescind a contract as provided by ORS 83.710 and to honor plaintiff's proper exercise of
 19 his right to reject the contract is a willful violation of ORS 646.608(1)(k).

20 20.

21 Plaintiff is entitled to statutory damages of \$200 for each of Maximums violations, numbering
 22 pursuant to ORS 646.638 and actual damages of \$40,000 for collecting a debt that is not owed.

23 21.

24 Anderson's demanding payment for services or goods that are not owed is a violation of ORS
 25 646.608(1)(s). Plaintiff is entitled to statutory damages of \$200 for each of Anderson's violations.

pursuant to ORS 646.638 and is jointly and severely liable with Maximum for actual damages of \$40,000 for collecting a debt that is not owed.

22.

Plaintiff will seek leave to amend to allege punitive damages pursuant to ORS 646.638(1).

23.

Plaintiff is entitled to attorney fees under ORS 646.638 for violations of the UTPA.

24.

SECOND CLAIM FOR RELIEF (FDCPA)

Defendant [*s, Anderson's and*] Hillcrests, demanding payment for a debt that is not owed is a violation of 15 USC 1692f and f(1); 1692e and e(2).

25.

Defendant Hillcrest's demand for payment on an account that had already been paid is a violation 15 USC 1692(d) and (f).

26.

Defendant Hillcrest's failure to respond to plaintiff's dispute while continuing to collect the alleged debt is a violation of 15 USC 1692g(b).

27.

Defendant Hillcrest's threat to falsely report to a credit reporting agency that the debt was owed is a violation of 15 USC 1692e(2), e(5) and e(8).

28.

Plaintiff is entitled to attorney fees and costs for violations of the FDCPA pursuant to 15 USC 1692k(a)(3) against Hillcrest [*and Anderson*].

29.

Plaintiff is entitled to statutory damages in an amount up to \$1,000 each against Hillcrest [*and Anderson*] pursuant to 15 USC 1692(a)(2)(A).

1 30.

2 Plaintiff is entitled to actual damages of \$60,000 against Hillcrest for it's violations pursuant to
3 15 USC 1692(a)(1).

4 31.

5 *[Plaintiff is entitled to actual damages of \$40,000 against Anderson for it's violations pursuant*
6 *to 15 USC 1692(a)(1).]*

7 **THIRD CLAIM FOR RELIEF (ELDER ABUSE)**

8 32.

9 Plaintiff is a vulnerable person as defined by ORS 124.100, et seq. *[Defendant's]* **[Maximum]**
10 took advantage of his disability by wrongfully appropriated money from Plaintiff through the use
11 of false statements, high pressure tactics and misrepresenting and/or withholding and/or
12 concealing information about his right under state and federal law to rescind the contract and
13 taking money from him.

14 33.

15 Plaintiff has been damaged as a result of this financial abuse in the amount of \$2,032.80 for
16 economic damages and \$40,000 for non-economic damages.

17 34.

18 Plaintiff is entitled to attorney fees under ORS 124.100(2)(c) for violations of ORS 124.100.

19
20 **FOURTH CLAIM FOR RELIEF**

21 **(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)**

22 **35.**

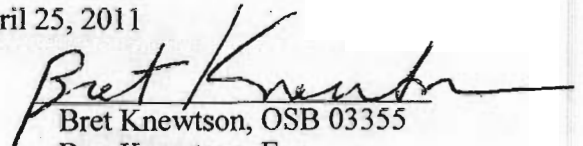
23 **[Defendants intentionally inflicted emotional distress on plaintiff by lying about plaintiff's**
24 **obligation to pay the debt, thereby inducing plaintiff to pay the alleged debt. This action subjected**
25 **plaintiff to severe emotional distress. This caused plaintiff actual damages of \$40,000 for the April**

1 collection acts initiated by Maximum and \$60,000 of actual damages for the actions taken by
2 Maximum and Hillcrest after the alleged debt was paid. Plaintiff will seek leave to amend and plead
3 punitive damages]

4 WHEREFORE, plaintiff prays for,

- 5 1. \$2,032.80 in actual damages and \$[60,000] ~~[\$40,000]~~ for emotional distress damages,
6 and \$400 for statutory damages and attorney fees (to be determined) pursuant to ORS
7 646.638 against ~~[Anderson and]~~ Maximum.
8 2. That the amount awarded as economic and non-economic damages for the wrongful
9 taking of money from a vulnerable person be tripled pursuant to ORS 124.100 and
10 \$126,098 be awarded [and attorney fees, against Maximum].
11 3. \$1,000 in statutory damages each against defendants Hillcrest and Davidson and attorney
12 fees for violation of the Fair Debt Collection Practices Act.
13 4. \$60,000 for actual damages against Hillcrest and attorney fees pursuant to the Fair Debt
14 Collection Practices Act.
15 5. [\$100,000 for non-economic damages against Maximum, with Hillcrest jointly and
16 severally liable for \$60,000 of that amount for intentional infliction of emotional
17 distress]

18 Dated this April 25, 2011

19 
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26 (503) 922-3181

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR MULTNOMAH COUNTY

ROBERT BLALOCK.,
Plaintiffs,

vs.

MAXIMUM SECURITY ALARM INC. AKA
MAXIMUM SECURITY; and HILLCREST
DAVIDSON & ASSOCIATES LLC.,
Defendant

Case No.: 1104-04734

Summons

DEFENDANT Hillcrest Davidson & Associates LLC c/o Sean Atwood, Vice President 850 N
Dorothy DR STE 512 Richardson Texas 75081

You are hereby required to appear and defend the complaint filed against you in the above entitled action within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, plaintiff will apply to the court for the relief demanded in the complaint.

NOTICE TO THE DEFENDANT: READ THESE PAPERS CAREFULLY!

You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal paper called a "motion" or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff's attorney or, if the plaintiff does not have an attorney, proof of service upon the plaintiff.

If you have any questions, you should see an attorney immediately. If you need help in finding an attorney, you may call the Oregon State Bar's Lawyer Referral Service at (503) 684-3763 or toll free in Oregon at (800) 452-7636.


SIGNATURE OF ATTORNEY FOR PLAINTIFF

Bret Knewton OSB#03355
3000 NW Stucki PL STE 230-M
Hillsboro OR 97123

ATTORNEY'S NAME / ADDRESS
(503) 846.1160

ATTORNEY'S PHONE NUMBER

STATE OF OREGON; } ss. County of Multnomah }

I, the undersigned attorney of record for the plaintiff, certify that the foregoing is an exact and complete copy of the original summons in the above entitled action.

ATTORNEY OF RECORD FOR PLAINTIFF

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: *You are hereby directed to serve a true copy of this summons, together with a true copy of the complaint mentioned therein, upon the individuals or other legal entities to whom or which this summons is directed, and to make your proof of service on the reverse hereof or upon a separate similar document which you shall attach hereto.*

ATTORNEY FOR PLAINTIFF

EXHIBIT B
PAGE 1 OF 1

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

ROBERT BLALOCK
Plaintiff,

v.

MAXIMUM SECURITY ALARM INC. aka
MAXIMUM SECURITY; and HILLCREST
DAVIDSON & ASSOCIATES LLC
Defendants.

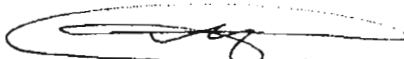
Case No. _____

CONSENT TO REMOVAL

Defendant Maximum Security Alarm Inc. ("Maximum") hereby consents to removal of this action from Multnomah County Circuit Court to the United States District Court, District of Oregon, Portland Division, pursuant to the Notice of Removal filed by defendant Hillcrest Davidson & Associates LLC.

By consenting to this removal, Maximum does not waive any defenses or claims, including (but not limited to) any defenses based on jurisdiction, service, or statute of limitations.

DATED: June 15, 2011



Name: Andrew Higgins
Title: President / CEO
On Behalf of Maximum Security Alarm Inc.